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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,461	04/16/2004	Derek J. Richards	562492000100	1486
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EXAMINER				
REDDIVALAM, SRINIVASA R				
ART UNIT		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/826,461

Applicant(s)

RICHARDS ET AL.

Examiner

SRINIVASA R. REDDIVALAM

Art Unit

2419

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 March 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-19, 21-25, 27-30 and 33-38.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Chirag G Shah/
Supervisory Patent Examiner, Art Unit 2419

Continuation of 11, does NOT place the application in condition for allowance because: In page 10 of Applicant's Remarks, regarding independent claim 35, Applicant mentions that Telefonaktiebolaget at least fails to inherently or expressly disclose that a "user request message includes a request for multicast service and first list of received neighbouring cells," as recited by independent claim 35. However, this statement from Applicant is not valid as Telefonaktiebolaget LM Ericsson teaches user message containing both a request for multicast service and a first list of receivable neighboring cells as recited by claim 35 (see page 19, paragraphs [0053] & [0054] wherein the mobile station recognizing the need to register with the network to provide an indication of the mobile's active set for multicast service and sending the registration request to the network are mentioned and this is clearly equivalent to the user message containing both a request for multicast service and a first list of receivable neighboring cells as recited by claim 35 and the mobile station's reported active set includes the list of receivable neighbouring cells which is also mentioned in para [0051]).

In page 11 of Applicant's Remarks, regarding independent claim 38, Applicant mentions that Telefonaktiebolaget fails to disclose, "receiving a user message ... in the first cell" and "initiating the multicast service in the group of cells neighboring the first cell," as recited by claim 38. However, this statement from Applicant is not valid as Telefonaktiebolaget LM Ericsson teaches "receiving a user message ... in the first cell" and "initiating the multicast service in the group of cells neighboring the first cell," as recited by claim 38 (see page 19, para [0054] wherein, in response to receiving the registration request, the network activating the broadcast/multicast service only in the service areas identified in the requesting mobile station's reported active set is mentioned which is clearly equivalent to 'in response to the user message, initiating the multicast service in the group of cells neighbouring the first cell' and the mobile station's reported active set includes the list of its receivable neighbouring cells).

In page 12 of Applicant's Remarks, regarding independent claims 1 and 23, Applicant mentions that Jung fails to disclose or suggest providing multicast service in a cell different from the cell containing the user equipment. However, this statement from the Applicant is not valid as Jung discloses providing multicast service in a cell different from the cell containing the user equipment (see pages 5 & 6, para [0085] wherein the SRNC sensing the movement of the terminal/user equipment from 2nd cell and transmitting an MBMS connection request message to a DRNC i.e. 1st cell is mentioned and thus Jung in combination with Telefonaktiebolaget LM Ericsson teach all the limitations of the claims 1 and 23 as explained under Claim Rejections in the final office action. Clearly SRNC and DRNC are two different RNCs for the user equipment as per para [0013] & shown in fig.2).

In page 13 of Applicant's Remarks, regarding independent claim 19, Applicant mentions that Jung fails to disclose or suggest that "for each cell,... accumulating a first count of user messages having the cell included in the [neighbouring cell] list," as recited by claim 19. However, this statement from the Applicant is not valid as Jung et al. in combination with Cooper teach user messages which include a list of neighboring cells and accumulating a first count of user messages having the cell included in the list, as recited by claim 19 (see Jung et al. teach receiving one or more user messages (i.e. MBMS UE linking message transmitted by CN in Fig.7) transmitted by core network (i.e. CN), wherein each one or more user messages includes a list of one or more neighbouring cells [Page 5, 0077]; and for each cell of the group of cells, accumulating a first count (page 2, [0026], lines 8-11) of the user messages having the cell included in the list of one or more neighbouring cells and Jung et al. in combination with Cooper teach all the limitations of the claim 19 as explained under Claim Rejections in the final office action.

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In page 14 of Applicant's Remarks, regarding claim 33, Applicant mentions that 3GPP fails to disclose or suggest the user equipment transmitting "a second list including an indication of acceptable cells from the" list of neighboring cells, as recited by claim 33. However, this statement from the Applicant is not valid as 3GPP clearly teaches a second list including an indication of acceptable cells from the list of neighboring cells (see page 7, section 7.1 i.e. selective combining for MBMS P-T-M transmission, wherein the UE determining the neighbouring cell suitable for selective combining based on threshold and the presence of MBMS Neighbouring Cell Information of that neighbour cell is mentioned which is equivalent to the user equipment transmitting a second list including an indication of acceptable cells from the list of neighboring cells and thus 3GPP in combination with Cooper teach all the limitations of claim 33 as mentioned under Claim Rejections in the final office action).

In page 15, Applicant further mentions that Cooper fails to disclose or suggest "that the user equipment transmits a list of acceptable cells," as recited by claim 33. However, this statement from the Applicant is not valid as Cooper discloses "that the user equipment transmits a list of acceptable cells," as recited by claim 33 (see block 102 in Fig.1 and also see page 3, [0046]). Applicant further mentions that it would not be obvious to combine Cooper and 3GPP, Cooper deals with handover of calls between networks like UMTS and GSM and 3GPP discusses support of Multimedia Broadcast Multicast Service (MBMS) and Network handoffs and MBMS are different areas of technology and to combine the references would require changing the operation of either reference beyond the scope of that reference. However, this statement from the Applicant is not valid as Cooper also mentions that the invention is applicable to handover between different GSM networks and different cellular mobile networks generally (see para [0002]) and supporting MBMS service when a mobile handoffs to different cells is very important to continue the multicast service to the user in that cell and thus it would be obvious to combine Cooper and 3GPP to support and improve the performance of providing the multicast service to the user. The rejection of all other claims is already presented in the final office action.